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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,928	05/23/2001	Lin Wang	211534	1613

22908 7590 09/30/2004

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EXAMINER
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FONTAINE, MONICA A

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/863,928

Applicant(s)

WANG ET AL.

Examiner

Monica A Fontaine

Art Unit

1732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Although applicant contends that van Lengerich (US 6190591) teaches an insoluble starch, the examiner maintains the rejections in the paper mailed 16 June 2004. Applicant contends that the starch that is used in connection with the encapsulation is a water insoluble starch. This is not persuasive because van Lengerich discusses using a soluble starch in a plethora of places: Column 5, lines 58-67; Column 6, lines 1-8, 46-51; Column 7, lines 54-55; Column 8, lines 4-6, 18-31; Column 15, lines 15-26). It is noted that the passage which applicant has cited, column 2, lines 59-63, dictates the teaching of cited prior art, not the teachings of van Lengerich. Furthermore, applicant contends that there is no teaching to employ the starch of Rose et al. (US 6284359) in van Lengerich. This is not persuasive, as both Rose et al. and van Lengerich use water soluble starches in their processes. See above citations for van Lengerich's teaching of using water soluble starches. It is evident that Rose et al. disclose the use of water soluble starches in Column 2, lines 4-5 ("water dispersable"). Applicant contends that the stated goal of van Lengerich is to avoid solubility. This is not persuasive because the goal of van Lengerich is only to delay solubility, as shown in Column 21, lines 54-67; Column 22, lines 1-7; and Column 24, lines 9-15. Finally, applicant contends that van Lengerich says nothing about whether an extruder can be used to prepare a water soluble starch. This is not persuasive because in Column 22, lines 34-52, an extruder is clearly being used to process a water-soluble starch.



**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**